

BOARD OF BUILDING CODE STANDARDS AND APPEALS MINUTES

May 6, 2013

Members: Francisco Banuelos, Randy Coonrod, Daryl Crotts, Brad Doeden, Randy Harder, Russ Redford, Larry Webb, Gregg Wilhite, Warren Willenberg

Present: Banuelos, Coonrod, Crotts, Harder, Redford, Wilhite, Willenberg

Staff Members Present: Tom Stolz, Rick Stubbs, Bud Lett, Richard Meier, Elaine Hammons (MABCD); Jeff Van Zandt (City Law)

The regular meeting of the Board of Building Code Standards and Appeals was called to order by Chairman Coonrod on Monday, May 6, 2013, at 1:02 p.m., at the Wichita Area Builders' Association Offices, 730 N. Main, Wichita, Kansas.

Approval of the April 1, 2013, minutes.

Board Member Harder made a motion to approve the minutes for the April 1, 2013, minutes. Board Member Redford seconded the motion. The motion carried. (Board Member Crotts was not present for this vote.)

Public Agenda.

There was no one present to speak on the Public Agenda.

New Business

Condemnations:

There were no properties presented to the Board for condemnation hearings for May.

Chairman Coonrod asked the Board Members and City and County staff to introduce themselves to the public in attendance.

Appeal for variance - Paul Cavanaugh, Architect for Guerilla Builders, LLC – Wichita Presbyterian Manor Marketing Office, 7348 W. 21st N.

Mr. Tom Stolz briefly explained that MABCD staff meets weekly and considers all requests for variance. The requests are discussed by staff, and if there is no resolution suitable to all parties involved, the matter can be appealed to the Board of Building Code Standards and Appeals.

Mr. Cavanaugh distributed photos of the area in question as he explained that he had been on a tight five-week time line to complete the renovation of the offices for the company so it could begin leasing property at Presbyterian Manor at 13th Street and Zoo Boulevard. He submitted plans for review to the City of Wichita about the same time he ordered the cabinet and sink for the coffee bar area. By the time he received the notations on the plan review indicating that the countertop height had to be lowered to 34" to meet ADA requirements, the previously ordered cabinet was already installed. Upon inspection by Lance Davis, building inspector, MABCD/City, it was discovered that the installed countertop was 36" in height instead of the required 34" countertop.

According to the Director of Sales at the marketing offices, Mr. Cavanaugh said, only staff will be accessing the coffee bar as a work area during sales presentations for the assisted living units at the 13th St. and Zoo Blvd. location. There is another sink of the required 34" height in a kitchen area nearby that is accessible to visitors if needed.

Chairman Coonrod asked if the employee kitchen would constitute an ADA accessible area in lieu of the coffee bar. Mr. Meier stated the real issue was that the coffee bar area was accessible to the public, had no door, and was not designated as employees only by signage. He expressed concern that under those conditions, the area would be construed as open to the public. Board Member Wilhite asked if an "Employees Only" sign could be posted in the coffee bar area to eliminate public access. Mr. Meier replied that the matter should be referred to the Great Plains Access Board (Department of Justice) for its ruling. Mr. Stubbs interjected that ADA has provisions for minimum requirements for employment at a site, which will allow some leeway under certain conditions; however, he was doubtful that the Presbyterian Manor Marketing Office had the necessary requirements already in place. He concurred that consulting with the Department of Justice would be the next step. Mr. Stubbs emphasized that it would be very important to make this variance specific to this particular project and situation. Mr. Van Zandt agreed and clarified that the 34" vs. 36" countertop height was not the issue being considered but the acceptance of the coffee bar area in that particular site being designated as an employee only area.

Board Member Crotts made a motion to approve Mr. Cavanaugh's request to allow the 36" countertop and sink to remain and properly designate the coffee bar area at the Wichita Presbyterian Manor Marketing Office, 7348 W. 21st N., as an employee only area upon approval of such by the Great Plains Access Board, Department of Justice. Board Member Harder seconded the motion. The motion carried.

Discussion – Allowing inspections to be performed prior to issuance (paid fees) of permits.

Mr. Meier addressed the Board about the concerns of MABCD staff regarding permit issuance prior to the payment of the required fees. In some instances, including trade permits, a contractor will submit his permit request by fax or through the Dynamic Portal and receive a permit number prior to the payment of the fees. The contractor will begin working on the job, and MABCD administrative staff has to make contact with the contractor and request payment of all permit fees.

Board Member Wilhite made a motion that all permits, including trades, have required fees paid prior to allowing any work to be done or inspections to be performed. Board Member Harder seconded the motion.

Mr. Lonny Wright, a citizen in attendance, requested that he be allowed to address the Board on the matter. He objected to the Board of Building Code Standards and Appeals having any authority to take action on the trade permitting process.

Board Member Wilhite withdrew his original motion and made the new motion to endorse the payment of all permits prior to allowing any work to be done or inspections to be performed.

Mr. Stubbs added that the 'pay' feature is the critical part of permitting; it is imperative that the contractors understand that all permit applications submitted by fax or through the online permitting system are only applications until they are approved by staff and the fees are paid.

Board Member Harder seconded the new motion by Board Member Wilhite. The motion carried.

Mr. Stolz told the Board he would like to have an opportunity to do an electronic mass communication to contractors advising them that permitting processes will change to incorporate the payment requirements before officially making the change. He said the MABCD staff would have a target date of July 1st to officially initiate the business process change and would have a communication out to the contractors prior to that date.

Old Business

Response from MABCD regarding Ms. Sherry LaFond's complaint at the April 1, 2013, hearing (Public Agenda).

On the Public Agenda at the April 1, 2013, regular meeting, Sherry LaFond addressed the Board regarding her dissatisfaction with the procedures followed when she filed a complaint with the Metropolitan Area Building & Construction Department/City (formerly OCI) against a contractor.

She said she has since resolved the issue with the property owner of a neighboring house, who had remodeled the neighboring structure during which time damages allegedly occurred to Ms. LaFond's property. Ms. LaFond told the Board that she felt a better process should be in place to handle complaints against contractors, and she said the City's assistance in the matter was inadequate.

At the request of the Board, Mr. Stolz responded to Ms. LaFond's complaint. Mr. Stolz explained that Ms. LaFond had made accusations against the contractor who was doing renovation to the property abutting Ms. LaFond's property that could not be proven. The damage that Ms. LaFond alleged was done by the contractor to her property was a civil matter in which MABCD had no authority to take action. MABCD staff had tried to facilitate communication between Ms. LaFond and the contractor, but Ms. LaFond was not satisfied with the outcome of those efforts.

Having had numerous conversations with Ms. LaFond about her allegations and what authority MABCD staff had regarding the situation, Mr. Stolz ultimately suggested that she address the Board during the Public Agenda segment at one of the regularly scheduled Board meetings.

Chairman Coonrod thanked Mr. Stolz for the response on behalf of MABCD, and said he was satisfied that MABCD staff had made every effort to assist Ms. LaFond within the parameters of their authority.

Further discussing the Public Agenda segment in general, Chairman Coonrod asked under what circumstances the Board could go into an Executive Session to confer with legal counsel or one another. Mr. Van Zandt said he would provide a guide for the Board Members to know when an Executive Session is permissible.

Mr. Stubbs informed the Board that HB 2024 (State Registration of Roofing Contractors) had recently been passed and signed by the Governor. Mr. Van Zandt said he had been in touch with the District Attorney's Office in an attempt to get the details on when the new law will take effect and how it will affect local licensing. There are also questions about who will investigate any complaints about or violations of the newly passed bill.

With no other business to conduct, Board Member Harder made a motion to adjourn the meeting. Board Member Redford seconded the motion. The motion was approved.

The meeting adjourned at 1:52 p.m.